

ADORNO & TOSS

A LIMITED LIABILITY PARTNERSHIP
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JAN DOUGLAS ATLAS

EMAIL: JDA@ADORNO.COM

January 5, 2010

VIA CERTIFIED MAIL AND FACSIMILE

Mr. Irving H. Picard, Trustee
c/o Baker & Hostetler LLP
Attn: Claims Department
45 Rockefeller Plaza
New York, NY 10111

**Re: Bankruptcy Case No. 08-1789 (BLR) / Opposition to Trustee's Denial
of Claim Filed by Gerald Greenspoon/ Claim No. 9332**

Dear Mr. Picard:

This letter is in opposition to the Notice of Trustee's Determination of Claim dated December 8, 2009, denying the claim of Mr. Gerald Greenspoon ("Claimant") pursuant to the Securities Investor Protection Act, 15 U.S.C. 78aaa, *et seq.* ("SIPA").

SIPA "is remedial legislation. As such it should be construed liberally to effect its purpose." *In re First State Securities Corp.*, 34 B.R. 492, 496 (Fla. 1983) (quoting *Tcherepnin v. Knight*, 389 U.S. 332 (1967)). "The purpose is the protection of the insolvent brokers' customers." *Id.* at 496. In *Securities and Exchange Commission v. F. O. Baroff Co., Inc.*, 497 F.2d 280 (2d Cir. 1974) [hereinafter, "*F. O. Baroff Co.*"], the Second Circuit gave a detailed analysis of SIPA's legislative history and intent. *Id.* at 281. Specifically, the court stated that:

[t]he object of that statute, and the function of the Securities Investor Protection Corporation (SIPC) it created, is to protect the public customers of securities dealers from suffering the consequences of financial instability in the brokerage industry...Once a broker or dealer is found to be on the brink of collapse or in danger of failing to meet its obligations to its customers, a trustee is appointed for liquidation of the business. The firm's [sic] clients are cushioned (within limits) from personal loss through a special fund collected by SIPC from all securities dealers registered under the 1934 Securities Exchange Act...But the Securities Investor Protection Act allows only those who meet its definition of a 'customer' to share in this assurance.

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F. O. Baroff Co., 497 F.2d at 281. Citing the House of Representatives, the court went on to state that “[t]he primary purpose of [SIPA] is to provide protection for investors if the broker-dealer with whom they are doing business encounters financial troubles.” *Id.* at 283. In furtherance of SIPA, SIPC, “an independent corporation established by Congress,” was created, “to reestablish[] confidence in the securities markets” by “protect[ing] investors from the effects of chronic instability in the securities industry.” *Massachusetts Financial Services, Inc. v. Securities Investor Protection Corp.*, 411 F. Supp. 411, 412-13 (D.C. Mass. 1976). SIPC’s “prime responsibility [is] to establish...a substantial reserve fund which...provide[s] protection to investors in the event a brokerage firm collapse[s].” *Id.* at 413.

SIPA defines the term “customer” of a debtor as:

any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral security, or for purposes of effecting transfer. The term “customer” includes any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities...

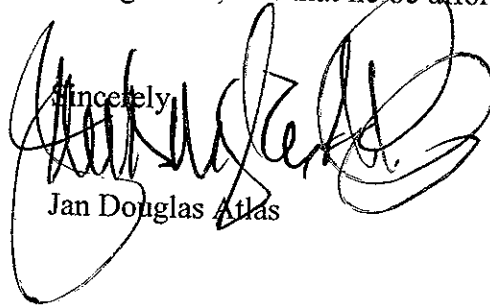
15 U.S.C.A. § 7811(2) (emphasis added).

The United States District Court for the Southern District of New York further discussed the definition of the term “customer” in *Securities and Exchange Commission v. Kenneth Bove & Co., Inc.*, 378 F. Supp. 697 (S.D.N.Y. 1974) [hereinafter “*Kenneth Bove & Co.*”]. The court found that in order to be considered a “customer” under SIPA, “the claimant must have entrusted his securities to the debtor in liquidation,” and have been “on account of securities received, acquired, or held by the debtor.” *Id.* at 699. Claims pursuant to SIPA are “grounded on possession of identifiable securities by the broker.” *Id.* Under SIPA, **“the preferential protection is accorded to a person who can trace and identify the...funds in the hands of the stockbroker.”** *Id.* (emphasis added).

In this case, Claimant’s funds are traceable and can be identified as being in the direct control of Bernard L. Madoff Investment Securities LLC. Claimant transferred and placed the amount of \$600,000.00 for the account “Charles Schwab Custodian FBO Gerald Greenspoon IRA” (the “Investment”) with Emerald Asset Advisors, LLC which purchased with the Investment a limited partnership interest in the Rye Select Broad Market Fund, LP (“Rye Fund”) under the authority of the Rye Fund’s General Partner, Tremont Partners, Inc. (“Tremont Partners”), a subsidiary of Tremont Group Holdings, Inc. Attached hereto are copies of supporting documents evidencing the Investment in the limited partnership interest (the

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"Securities"). Tremont Partners placed all of the assets of the Rye Fund with Bernard L. Madoff Investment Securities LLC. The final account statement, attached hereto, reflects Securities owed to Claimant in the amount of \$614,655.00. Claimant is clearly a "customer" under SIPA and should be afforded its protection. The fact that Claimant's funds were not given directly from Claimant to Bernard L. Madoff Investment Securities LLC is of no consequence. As an investor, Claimant should be protected from the effects of the instable securities industry and, more specifically, the collapse of Bernard L. Madoff Investment Securities LLC, in which Claimant's assets were invested through his agents, Emerald Asset Advisors, LLC, the Rye Fund, and Tremont Partners. To deny Claimant's claim would directly contravene the legislative intent of SIPA. Accordingly, Claimant respectfully requests that the denial of his claim be reversed; that his claim be granted; and that he be afforded the protection to which he is entitled pursuant to SIPA.

Sincerely,

Jan Douglas Atlas

JDA/cab
Enclosure

cc: United States Bankruptcy Court
for the Southern District of New York (by mail only)

Mr. Gerald Greenspoon

Online Account Statements



Investor : Gerald Greenspoon, IRA
Company Name :
Account Type : Trust

Address : Charles Schwab Custodian FBO Gerald
3230 N. 38th Street
Hollywood, FL 33021

Account Summary (Year-To-Date)

Statement Date: June, 30 2008

Portfolio Name	Value at Jun 30, 2008	Net Cont./With.	Net Return	Value at Jun 30, 2008	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$-199	\$599,801	-0.03
Relationship Total	\$0	\$600,000	\$-199	\$599,801	

Current Activity

Portfolio Name	Value at Jun 01, 2008	Contributions	Withdrawals	Value at Jun 30, 2008
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$0	\$599,801
Relationship Total	\$0	\$600,000	\$0	\$599,801

Online Account Statements



Investor : Gerald Greenspoon, IRA
Company Name :
Account Type : Trust

Address : Charles Schwab Custodian FBO Gerald
3230 N. 38th Street
Hollywood, FL 33021

Account Summary (Year-To-Date)

Statement Date: July, 31 2008

Portfolio Name	Value at Jun 30, 2008	Net Cont./With.	Net Return	Value at Jul 31, 2008	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$5,364	\$605,364	0.89
Relationship Total	\$0	\$600,000	\$5,364	\$605,364	

Current Activity

Portfolio Name	Value at Jul 01, 2008	Contributions	Withdrawals	Value at Jul 31, 2008
Rye Select Broad Market Fund, L.P.	\$599801	\$0	\$0	\$605,364
Relationship Total	\$599,801	\$0	\$0	\$605,364

Online Account Statements



Investor : Gerald Greenspoon, IRA
Company Name :
Account Type : Trust

Address : Charles Schwab Custodian FBO Gerald
3230 N. 38th Street
Hollywood, FL 33021

Account Summary (Year-To-Date)

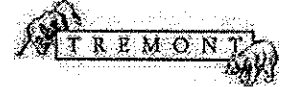
Statement Date: August, 31 2008

Portfolio Name	Value at Jun 30, 2008	Net Cont./With.	Net Return	Value at Aug 31, 2008	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$10,589	\$610,589	1.76
Relationship Total	\$0	\$600,000	\$10,589	\$610,589	

Current Activity

Portfolio Name	Value at Aug 01, 2008	Contributions	Withdrawals	Value at Aug 31, 2008
Rye Select Broad Market Fund, L.P.	\$605364	\$0	\$0	\$610,589
Relationship Total	\$605,364	\$0	\$0	\$610,589

Online Account Statements



Investor : Gerald Greenspoon, IRA

Address : Charles Schwab Custodian FBO Gerald

Company Name :

3230 N. 38th Street

Account Type : Trust

Hollywood, FL 33021

Account Summary (Year-To-Date)

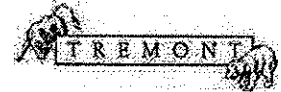
Statement Date: September, 30 2008

Portfolio Name	Value at Jun 30, 2008	Net Cont./With.	Net Return	Value at Sep 30, 2008	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$14,846	\$614,846	2.47
Relationship Total	\$0	\$600,000	\$14,846	\$614,846	

Current Activity

Portfolio Name	Value at Sep 01, 2008	Contributions	Withdrawals	Value at Sep 30, 2008
Rye Select Broad Market Fund, L.P.	\$610589	\$0	\$0	\$614,846
Relationship Total	\$610,589	\$0	\$0	\$614,846

Online Account Statements



Investor : Gerald Greenspoon, IRA

Address : Charles Schwab Custodian FBO Gerald

Company Name :

3230 N. 38th Street

Account Type : Trust

Hollywood, FL 33021

Account Summary (Year-To-Date)

Statement Date: October, 31 2008

Portfolio Name	Value at Jun 30, 2008	Net Cont./With.	Net Return	Value at Oct 31, 2008	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$600,000	\$14,655	\$614,655	2.44
Relationship Total	\$0	\$600,000	\$14,655	\$614,655	

Current Activity

Portfolio Name	Value at Oct 01, 2008	Contributions	Withdrawals	Value at Oct 31, 2008
Rye Select Broad Market Fund, L.P.	\$614,846	\$0	\$0	\$614,655
Relationship Total	\$614,846	\$0	\$0	\$614,655



BNY ALTERNATIVE INVESTMENT
SERVICES, INC.
101 Barclay Street, 20th Floor West
New York, New York 10286
USA

Fax: 954-385-9624

E-mail: abudelman@emeraldasset.com

03-Jun-2008

Allan Budelman
2843 Executive Park Drive
Weston, FL 33331
USA

CONFIRMATION OF INTENT

Dear Investor,

We are pleased to confirm the receipt of your notice of intent to invest into Rye Select Broad Market Fund, LP. The details below confirm the specifics of the transaction. Your transaction will not be executed until all requisite documentation has been received in good order, adequate funds have been received and your eligibility as an investor in Rye Select Broad Market Fund, LP has been confirmed. If you have not already done so, please send original documentation via courier.

Please take a moment to review this confirmation to ensure that all details pertaining to this transaction and your account are correct. If any discrepancies are identified please contact our Investor Services Group as described below.

ACTIVITY CONFIRMED

Details

Action Confirmed: Notice Received

Action Pending: Buy

Amount: 600,000.00 USD

Dealing Date: 1-Jun-2008

Security: Rye Select Broad Market Fund, LP

ACCOUNT INFORMATION

Acct. Name	Charles Schwab Custodian FBO Gerald Greenspoon, IRA
Acct. Number	01-2008-00007143
Telephone	--
Facsimile	--
Email	gerryg@gmlaw.com

INVESTOR INQUIRIES

Telephone	212.815.4090
Facsimile	212.644.6669
Email	AISOnline_NY@bankofny.com
Web	www.fundadmin.com

charles SCHWAB
INSTITUTIONAL

Alternative Investment
Letter of Instruction

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Investment Advisor ("IA") Information (This portion to be completed by IA.)

IA Firm Name (please print): EMERALD ASSET ADVISORS LLC

IA Master Account Number: 8962470

Service Team: IST 2

1. Delivery Instructions

Please issue \$ 600,000.00 from my account number 4634-2226

to purchase Rye Select Broad Market Fund, LP

Please note that this security may be subject to a \$50 set-up fee and a \$100 annual maintenance fee.

Delivery method (select one):

☐ Check payable to:

Name

Street Address (no P.O. boxes, please)

City

State

Zip Code

Or ☒ Wire instructions* (\$25 wire fee applies)

Bank of New York

Bank Name

Bank Telephone Number

Rye Select Broad Market

890-0631-473

Bank Account Registration

Bank Account Number

021000018

ABA Routing Number (nine-digit number)

555 Theodore Fremd Ave Suite C-300

Address

Rye

NY

10580

City

State

Zip Code

(If there are further instructions, please attach a separate page.)

*To avoid delay, please contact the receiving financial institution for accurate routing information.

2. Fees

Please pay the \$250 transaction fee or the \$100 subsequent transaction fee (for capital calls or purchases of the same asset in the same account¹) and the \$25 wire fee (if applicable) for this purchase.

Amount of Investment

\$

Transaction Fee

\$

Wire Fee (if applicable)

~~\$25.00~~ Waive

Total Cleared Funds Required \$

¹Promissory notes excluded; \$250 fee applies.

3. Please Read and Sign

I acknowledge that I have been advised by Charles Schwab & Co., Inc. ("Schwab") to consult my own financial and tax advisor(s) before completing this transaction. I have not received any investment or tax advice from Schwab regarding this investment or its suitability for my account.

I understand Schwab will use the information provided to service my account.

I understand that Schwab is required to report the value of this asset annually to the Internal Revenue Service and that Schwab may request that I provide such a valuation. This value should be quoted in U.S. dollars and in accordance with the requirements of the Internal Revenue Service, Department of Labor and any other governing agencies.

Authorized Signature

Date 5/14/08

(mm/dd/yyyy)

For Charles Schwab Use Only

Account Number

Date Approved (mm/dd/yyyy)

Print Name of Approver

Signature



RYE

Investment Management

A Division of The Prudential Group Holdings, Inc.

Redemption Notice

To: The Bank of New York Mellon
Alternative Investment Services
101 Barclay Street, 20th Floor, West
New York, NY 10286
Tel: (212) 815-4090
Fax: (212) 644-6669
Attention: Investor Services - Rye Select Funds

From (Name of the Registered Investor): Gerald Greenspoon IRA
(Please fill in exactly as listed on your statement)

1. Rye Select Funds (check one fund per notice):

- ☐ Rye Select Activist Fund
- ☐ Rye Select Activist Segregated Portfolio
- ☒ Rye Select Broad Market Fund, L.P.
- ☐ Rye Select Broad Market Prime Fund, L.P.
- ☐ Rye Select Broad Market XL Fund, L.P.
- ☐ Rye Select Broad Market Portfolio Limited
- ☐ Rye Select Broad Market XL Portfolio Limited
- ☐ Rye Select Broad Market Insurance Portfolio, LDC
- ☐ Rye Select Equities Fund
- ☐ Rye Select Equities Segregated Portfolio
- ☐ Rye Select Futures Fund
- ☐ Rye Select Futures Segregated Portfolio

2. Type of Redemption (check one):

- ☐ Partial (\$ Amount): _____
- ☒ Full

3. Redemption Date: 1/1/09

4. Wiring Instructions:

Name of Financial Institution: Citibank NA
Address: _____
ABA #: 021000029
Account Number: 40553953
Account Name: Charles Schwab

(The account name and the name of the registered investor must be the same)

Further Credit to: Gerald Greenspoon IRA / c # 46312226

5. Signature (client or entity representative) X

Name: Gerald Greenspoon
Position/Title: _____
Date: 12/19/08



BNY ALTERNATIVE INVESTMENT
SERVICES, INC.
101 Barclay Street, 20th Floor West
New York, New York 10286
USA

12-Jun-2008

Charles Schwab Custodian FBO Gerald Greenspoon, IRA
3230 N. 38th Street
Hollywood, FL 33021
USA

TRADE CONFIRMATION

Dear Investor,

We are pleased to confirm your investment into Rye Select Broad Market Fund, LP. The details below confirm the specifics of the transaction executed on your behalf.

Please take a moment to review this confirmation to ensure that all details pertaining to this transaction and your account are correct. If any discrepancies are identified please contact our Investor Services Group as described below.

Per your instructions a copy of this confirmation has been sent to Ms. Pamela Palmer and Allan Budelman.

ACTIVITY CONFIRMED

Security		Rye Select Broad Market Fund, LP	
Details		Contributions	
Action	Buy	Gross Contribution	600,000.00
Dealing Date	1-Jun-2008	Sales Charge/Interest Payment	0.00
Base Currency	USD	Net Contribution	600,000.00
Lot Ref. Number	000374		

ACCOUNT INFORMATION

Acct. Name Charles Schwab Custodian FBO Gerald Greenspoon, IRA

Acct. Number 01-2008-00007143

Telephone --

Facsimile --

Email gerryg@gmlaw.com

INVESTOR INQUIRIES

Telephone 212.815.4090

Facsimile 212.644.6669

Email AISOnline_NY@bankofny.com

Web www.fundadmin.com